

§ 54B-109. Indemnification.

(a) An association shall maintain a blanket indemnity bond of at least a minimum amount as prescribed by the Commissioner of Banks.

(b) An association which employs collection agents, who for any reason are not covered by the bond as hereinabove required, shall provide for the bonding of each such agent in an amount equal to at least twice the average monthly collections of such agent. Such agents shall be required to make settlement with the association at least once monthly. No such coverage by bond will be required of any agent which is a federally insured depository institution. The amount and form of such bonds and the sufficiency of the surety thereon shall be approved by the board of directors and the Commissioner of Banks before such is valid. All such bonds shall provide that a cancellation thereof either by the surety or by the insured shall not become effective unless and until 30 days' notice in writing shall have been given to the Commissioner of Banks.

(c) The Commissioner of Banks may require every member of the board of directors, officer or employee of an association who shall knowingly make, approve, participate in, or assent to, or who knowingly shall permit any of the officers or agents of the association to make investments not authorized by this Chapter, to deposit with the association an indemnity bond, insurance or collateral of a kind and amount sufficient to indemnify the association against damage which the association or its members or stockholders sustain in consequence of such unauthorized investment.

(d) The amount considered sufficient to indemnify the association shall, in the case of an unauthorized loan, be the difference between the book value of the loan and the amount that could legally have been made under the provisions of this Chapter. The amount considered sufficient to indemnify the association shall, in the case of an unauthorized other investment, be the difference between the book value and the market value of the investment at the time when the Commissioner of Banks makes his determination that such investment is unauthorized. Whenever an unauthorized investment has been sold or disposed of without recourse, the Commissioner of Banks shall release such part of the indemnity as remains after deducting any loss, which amount shall be retained by the association. Whenever the balance of an unauthorized loan has been reduced to an amount which would permit such loan to be made in compliance with the provisions of this Chapter, the indemnity shall be released. The Commissioner of Banks, in making such determination may require an independent appraisal of the security.

(e) The Commissioner of Banks shall cause to be examined annually all such bonds and pass on their sufficiency and either the board of directors or the Commissioner of Banks may require new or additional bonds at any time.

(f) The Commissioner of Banks is empowered to promulgate rules and regulations with respect to litigation expenses and other indemnity matters. (1981, c. 282, s. 3; 1989 (Reg. Sess., 1990), c. 806, s. 8; 2001-193, s. 16.)